THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOSHUA FOUGHT, et al. :

:

Plaintiffs,

: 3:17-CV-1825

(JUDGE MARIANI)

CITY OF WILKES-BARRE,

PENNSYLVANIA, JOSEPH HOMZA,

and MARCELLA LENDACKY,

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:

Defendants. :

ORDER

AND NOW, THIS 12TH DAY OF JUNE 2020, upon consideration of Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint (Doc. 41) and all relevant documents, IT IS HEREBY ORDERED THAT:

- Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint (Doc. 41) is
 DENIED except as stated in paragraph 2 for the reasons set out in the simultaneously filed Memorandum Opinion.
- Defendants' Motion is GRANTED AS MODIFIED insofar as Count XI (42 U.S.C. §
 1983 Custom and Policy) and Count XII (Negligent Hiring) are DISMISSED
 WITHOUT PREJUDICE.
- 3. Plaintiffs are granted leave to file an amended complaint addressing the deficiencies found in the claims dismissed without prejudice and incorporating all claims as to which the Court denied Defendants' motion.

 Should Plaintiffs choose to file an amended complaint, they shall do so on or before June 26, 2020.

s/ Robert D. Mariani_

Robert D. Mariani United States District Judge